

EPA-913

"Harry Pettengill"
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12/05/2011 01:38 PM

To "Gary at Quality Lapel Pins", LSkoski
cc "Steve Marschke", azeitoun, "Harry Pettengill", Reid
Rosnick
bcc
Subject FW: WA 2-04 Alternate Work Assignment Manager and
Technical Directive

Gary and Les.

The below is a Technical Directive I recently received from Reid Rosnick who is now the alternate WAM for Task 2-04 in Val Anoma's absence. This covers extra work to assess impacts to small business entities which could be impacted by the forthcoming revision of the subpart W NESHAP. Reid needs our review to cover what he must present under the Regulatory Flexibility Act (RFA). The main thrust of our effort is to research all corporate entities who are responsible for licensed U.S. uranium recovery facilities.

Specifically, we need to determine who has the controlling interest and is financially and legally responsible. Is it a sole entity or a subsidiary to a larger corporation? Is there a multinational interest or does the legal and financial responsibility lie with a foreign company? For the purposes of establishing whether it qualifies as a small business I have been told to assume that less than 500 employees by the controlling entity would reasonably constitute a small business. Steve and I made a quick look some time back and there are about 43 licensed facilities. So that becomes your primary focus. Some corporations control more than one facility, so we need to establish if everyone works for the controlling corporation or is the facility a solely owned subsidiary? Only after we establish whether any of the U.S. facilities qualify as a small business then we would look at potential impacts to that facility by the new rule.

Now the work your doing on this can only be charged to Task 2-04. The reason for this is it's an economic assessment and will be included in Section 6 of the NESHAP subpart W BID/EIA. So please don't charge any effort on this to Task 2-03. Our assessment and conclusions will be incorporated in Section 6 Of the NESHAP BID/EIA. I have allocated 100 hours total to accomplish this effort and Gary and Les can use up to 40 hours each on this effort. Steve and I will hold back 10 hours each as we'll need to incorporate it into Section 6 as part of the final report.

We have only 30 days to do this so time is of the essence. If you have any questions please call me as I'm usually here (301-845-7424). Let's shoot for two weeks to see what we've got before we write a lot up on this. Gary and Les should split up the facilities to review with what works best for you two. I don't need you both looking at the same sites. Remember if you can't do this in the next thirty days I need to know as Reid has a mid-January deadline to go up the Agency chain.

Harry

From: Rosnick.Reid@epamail.epa.gov [mailto:Rosnick.Reid@epamail.epa.gov]

Sent: Thursday, December 01, 2011 9:31 AM

To: pettengillh@verizon.net

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Subject: WA 2-04 Alternate Work Assignment Manager and Technical Directive

Harry,

For your information, Val Anoma is on an extended absence. I have been appointed the alternate work assignment manager for WA 2-04. Please direct all correspondence, deliverables, etc. for this work

assignment to me until you are directed otherwise.

As part of the Background Information Document (BID) for the Subpart W rulemaking (under WA 2-03), you have been tasked with preparing an Economic Impact Analysis (EIA). Since many of the issues discussed in the EIA also pertain to the EIA that is being prepared under WA 2-04, I am issuing the following technical directive (TD) for work under WA 2-04 that can also be incorporated into the EIA for Subpart W.

As you know, the Regulatory Flexibility Act (RFA) states that an EIA shall describe the impact of a rulemaking on small entities. Specifically included in this Act is a requirement for the type and number of small business entities to which the rule will apply, other compliance requirements of the proposed rule and any significant alternatives to the proposed rule which would minimize any significant economic impact of the proposed rule on these small business entities. In order to provide a thorough assessment of the RFA, the following issues must be considered;

1. A description of the types of small entities affected and to the extent that data are available, estimates of the number of affected small entities
2. A description of significant alternatives to the proposed rule which would accomplish stated objectives and minimize economic impact on small entities
3. A description of the impact of the compliance requirements of the proposed regulation; and
4. An analysis of alternatives to reduce the regulatory burden to small business entities

However, despite any negative economic impacts of any proposed rule on a small business entity, the negative impacts might be offset by positive benefits elsewhere as in the case of multinational/trans regional corporations. Therefore, even if the small business entities are affected negatively, they may choose to internalize or externalize to spread their losses. What this means is that in order to fully understand the impact of the RFA on a small business entity, the following issues must also be addressed;

1. Status of the firms. Are they firms or subsidiaries of a corporation?
 - a. What is the size of the operation in terms of employees?
 - b. Would the number employees alone determine the size/classification of the firm/company?
 - c. In a company such as Rio Algom (a former Canadian company subsidiary which was later sold to BHP, a British company), who would bear the cost/tax burdens of any proposed regulation; local communities, states or Governments?
 - d. What would be the effects of proposed regulation on the overall industry structure? Price increases, decreases, more competition, etc.
2. Baseline cost considerations to these firms. i.e. Likely economic costs to the proposed regulated industry without the proposed regulation
3. A differentiation to industry between basic policy costs (hard hats, steel toe shoes, clothing, etc), and implementation costs (implementation, monitoring, surveys, etc.)

4. Isolated costs due to government sharing actions such as interest rates, accelerated depreciation and subsidies.

The deliverable for this effort will be an analysis with conclusions that captures and addresses the above issues. The complete draft of this deliverable will be due within 30 days of receipt of this TD. Once approved, it will be incorporated into the EIA for Subpart W and, as appropriate, for the EIA for the 192 rulemaking. In meeting the requirements of this TD the contractor shall be in a support role, and will not be involved in the development of EPA policy, nor in any other activity that is an "inherently governmental function." Please contact me with questions and/or comments. Thanks

Reid

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